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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,776	09/19/2003	Marwan A. Fathallah	7110.US.01	6813

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BRIAN R. WOODWORTH
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EXAMINER

BELT, SAMUEL E

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/665,776	Applicant(s) FATHALLAH ET AL.	
	Examiner Samuel E. Belt	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/02/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

During a telephone conversation with Micheal Crabb on May 18, 2006 a provisional election was made without traverse to prosecute the invention of a pump tube set handling system, claims 18-26 & 29-30. After further consideration from the examiner the restriction is being withdrawn.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 02/02/2004 is acknowledged. Since submission complies with 37 CFR 1.97 and 1.98, the examiner has considered the references listed therein.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 14-17, & 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Sunderland et al. (WO 92/17226 A).

Sunderland et al. disclose a medical pump for use with a tube set having an inlet, outlet, slack and operative line portions, the medical pump comprising: a pump housing (Figure 1, item 11), a pumping mechanism (Figure 5, item 30), associated with the pump housing adapted to receive an operative line portion of a tube set and to pump fluid from an inlet line portion and into an outlet line portion of the tube set; and a tube snap set (Figures 2, 3, and 29, item 14) adapted to permit insertion and removal of a slack portion of the tube set; wherein the tube snap set includes a first tube snap and a second tube snap (see note) spaced from the first tube snap, the tube snap set being adapted to receive and slidably retain a slack portion of the tube set between the first tube snap and the second tube snap such that the retained slack portion is adjustable in length; wherein the opening of the groove is C-shaped (Figure 29, item 14).

(Note: In regards to claim 3, item 14 is being considered as two separated “snaps” because it is broken into two channels by item 15 which is a “pinch -clamp compartment”).)

Claims 1 & 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Miles et al. (US Patent Application 2002/0120229A1).

Miles et al. disclose a medical pump (Figure 12A, item 600) for use with a tube

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set having an inlet, outlet, slack and operative line portions, the medical pump comprising: a pump housing (Figure 12A), a pumping mechanism (Figure 12A, item 612), associated with the pump housing adapted to receive an operative line portion of a tube set and to pump fluid from an inlet line portion and into an outlet line portion of the tube set; and a tube snap set (Figures 12A, and 12B, item 630) adapted to permit insertion and removal of a loop of a slack portion of the tube set.

Claims 18-19 & 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Cedarberg (US Patent Application 2002/0096608A1).

Cedarberg discloses a medical pump for use with a tube set having an inlet, outlet, slack and operative line portions, the medical pump comprising: a pump housing (Figure 1, item 30), a pumping mechanism (Figure 1, item 30), associated with the pump housing adapted to receive an operative line portion of a tube set and to pump fluid from an inlet line portion and into an outlet line portion of the tube set; and a tube hanger attached to the pump housing (Figures 1, item 12) adapted to receive and removably secure a slack portion of line to the pump at a location remote from the pumping mechanism (**See Notes**).

(Notes: The recitation that an element is “adapted to” perform or is “capable of” performing a function is not a positive limitation but only requires the ability to so perform.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-13, 18-26, & 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sunderland et al. (WO 92/17226 A) in view of Cedarberg (US Patent Application 2002/0096608A1).

Sunderland et al. set forth a device as described above, which is substantially analogous to the claimed invention. The Sunderland et al. device differs from the claimed invention in that there is no explicit teaching of a tube hanger being attached to the pump housing. Cedarberg teaches a pump having a tube hanger (Figure 1, item 12) being attached to a pump housing (Figure 1, item 30).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to modify the Sunderland et al. device by using a tube hanger as taught by Cedarberg in order to hold cords and tubes extending from medical devices (column 1, paragraph 1).

Claims 20-21, & 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cedarberg (US Patent Application 2002/0096608A1) in view of

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Herlevi et al. (US Patent 6,109,460). Cedarberg sets forth a device as described above, which is substantially analogous to the claimed invention. The Cedarberg device differs from the claimed invention in that there is no explicit teaching of the tube hanger being attached to a bottom wall of the housing. Herlevi et al. teach a suspension rack having a mounting means (Fig. 5, item 10), which can be mounted to both a bottom & front side wall of a pump housing.

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to modify the Cedarberg et al. device by substituting the suspension rack as taught by Herlevi et al. for the Cedarberg rack, in order to provide a suspension rack, on which the cables can be suspended without a hazard of entanglement.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cedarberg (US Patent Application 2002/0096608A1) in view of Meinzer et al. (US Patent 5,782,805). Cedarberg sets forth a device as described above, which is substantially analogous to the claimed invention. The Cedarberg device differs from the claimed invention in that there is no explicit teaching of the pump housing including a user interface screen. Meinzer et al. teach a medical infusion pump having a main body portion (Fig. 1, item 14), which includes a display area for displaying user interface information.

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to modify the Cedarberg et al. device by using the main

body portion as taught by Meinzer et al., in order to provide a better method of monitoring parameters of a patient.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cedarberg (US Patent Application 2002/0096608A1) in view of Stone et al. (US Patent 5,401,256). Cedarberg sets forth a device as described above, which is substantially analogous to the claimed invention. The Cedarberg device differs from the claimed invention in that there is no explicit teaching of the pumping mechanism being a cassette pump. Stone et al. teach a pump having a cassette pump as a pumping mechanism.

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to modify the Cedarberg device by substituting a cassette pump (see paragraph 0013) as taught by Stone et al. in order to provide a means to regulate fluid flow in the pump (column 4, line 7+).

Conclusion

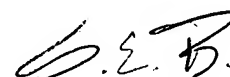
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel E. Belt whose telephone number is (571) 272-7820. The examiner can normally be reached on M-F, 8 - 4:30EST.

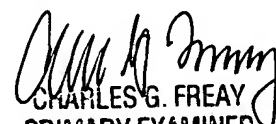
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on (571) 272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB


Samuel E. Belt
05/22/2006


CHARLES G. FREAY
PRIMARY EXAMINER